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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,957	10/24/2003	Anand Pande	14920US01	2011

23446 7590 07/20/2006

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EXAMINER

FRANKLIN, RICHARD B

ART UNIT PAPER NUMBER

2181

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/692,957	Applicant(s) PANDE, ANAND	
	Examiner Richard Franklin	Art Unit 2181	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

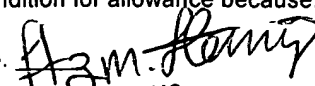
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: _____
 Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____


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 7/14/2006

Continuation of 11. does NOT place the application in condition for allowance because: The Request for Reconsideration is not persuasive. Instead of "combat such naked arguments with standard boilerplate responses" as alleged by applicant, the examiner will address the merits of each argument raised in the RESPONSE AFTER FINAL.

ARGUMENT No. 1,2 (pages 6-9 of 11) [Claims 5-11,14,15,17-19]:

The portion quoted by applicant is not the basis of the rejection presented by the examiner, but was presented by the examiner in response to an argument presented by applicants. In fact, the teaching of Miyamoto relied upon by the examiner is the "Miyamoto teaches an asynchronous FIFO memory that has a code generator connected to a write pointer (Miyamoto; Figure 1 Item 21)." Applicants have made a decision to not address this aspect of the rejection, but instead argue an alleged "engineering step backwards" of Miyamoto that would preclude a proper rejection under 35 USC 103. If applicants are aware of any case law that supports the "step backwards" approach chosen by applicants, then the examiner would appreciate such being made of record so it can be given an appropriate level of review and consideration. Applicant has not made a persuasive and factual argument regarding the use of the write pointer taught by Miyamoto.

Applicants are not advancing prosecution by arguing an alleged change in the operation of Pontuius when combined with Yi, by relying solely upon Pontious column 1, lines 12-15 and abstract. The examiner clearly has shown on the record that Pontius has expressly disclosed a "bilateral reflective symmetry but not bilateral translational symmetry" at col. 7, line 65 to col. 8, line 13. Pontius clearly introduces this as "The invention provides for another design method", and thus the combination is proper, as the combined teachings are consistent with the express objectives of the Pontius reference. In summary, the examiner cannot be persuaded by an argument that does not accurately reflect the teachings fairly contained and expressed within the references themselves. Finally, the applicants have not provided a factual basis for their conclusion, but merely allege that the objectives of Pontuis cannot be achieved, without a factual showing of how the "bilateral reflective symmetry but not bilateral translational symmetry" objectives of Pontius cannot be met when modified by the bilateral reflective symmetry teachings of Yi.

Claims 1-4,12,13,16,23 and 24 (Pages 9-11 of 11):

Again, applicants have chosen to not address the fact that Pontius has expressly disclosed a "bilateral reflective symmetry but not bilateral translational symmetry" at col. 7, line 65 to col. 8, line 13. Without providing an analysis of the teachings fairly contained within and expressed by Pontius (namely the "another design method"), the examiner cannot be persuaded by an argument that is improperly limited to only a subset of the teachings of the properly combined teachings of Pontius and Yi.